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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,824	09/27/2001	Michael Darryl Ruehle	2207/ 11838	5014
7590	04/30/2004			EXAMINER HUYNH, KIM NGOC
KENYON & KENYON Suite 600 333 W. San Carlos Street San Jose, CA 95110-2711			ART UNIT 2182	PAPER NUMBER 7
DATE MAILED: 04/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/966,824	RUEHLE ET AL.
	Examiner	Art Unit
	Kim Huynh	2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 March 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 22 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-3.      6) Other:

## DETAILED ACTION

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-30 are provisionally rejected under the judicially created doctrine of double patenting over claim 1-30 of copending Application No. 09/967,539. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Claims 1-8, 15-20, and 28-30 recite a system/method having a device/step for detecting a predetermined sequence of relevant data value indicating an event

triggering command within a string of data values having relevant and non-relevant data value, if the string includes no more than number 'N' of non-relevant data values between any two sequential relevant data values.

Claims 1-6, 14-19, and 27-30 of the copending application 09/967,539 differ from claims 1-8, 15-20, and 28-30 of the instant application in that it uses the "if the string includes 'N' or less non-relevant data values between a first and last relevant data values. Please note since the claims do no specify the number of relevant data values in the predetermined sequence, the first and last relevant data values are sequential in the event that the predetermined sequence includes only 2 values.

Claim 9-10 and 21-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-8 and 20-21 of U.S. Patent No. 09/967,539. Although the conflicting claims are not identical, they are not patentably distinct from each other because the counter of N+2 stage is not defined, therefore the value N can be interpreted to be of the same in both application (i.e. N=K=5) and therefore do not distinguish from the claims of the copending application.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claim 1, 14, and 28 as recited also fail to define the limits of the value N and the string of data values therefore render the claims indefinite.

5. Claims 1, 14, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the relationship of the 'N' value as it relates to the predetermined sequence.

Although the specification provides a dictionary for the claims, and the claims may be broader than the claims, the claims must be complete and self consistent so that the functional relationships between all of the elements/steps are clearly recited. The sequential logical operation of the elements working cooperatively must be clearly recited in the claims. Correction/clarification required.

6. The following rejections are made based on the examiner's best interpretation of the claims in light of the 35 USC 112 rejection.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 7-8, 15, 16, 20-21, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (US 4,754,420).

Claims 1, 15, Jensen discloses (Figs. 11-12) a first device (deep trap device, Fig. 11) for detecting a string of data (data sequence) having relevant and non-relevant data value (relevant data are bytes in predetermined ordinal position, col. 3, ll. 31) for indicating an event triggering command (recognizing a trigger sequence to perform/produce a predetermined output, i.e. go high, see background, col. 1, ll. 10-30) if the string of data value includes no more than N non relevant value between any two sequential relevant data value (for N being 10, there are no more than 9 non relevant data values between the first and tenth bytes of data string 410, see Fig. 10 and col. 11, ll. 24-33 or col. 3, ll. 18-31).

Claims 2 and 16, Jensen disclose a tap line 55 for communicating the string of data value between a signal line (transmission bus 10) and the first device.

Claims 7-8 and 20-21, Jensen discloses the command is detected by a data value sequence detector which include a plurality of value sequencing units (COMP RAM 545 having plurality of segments 0-63, each segment equates to a value sequence detector).

Claim 28, Jensen discloses a system for perceiving an event triggering command having a logic device as discussed above wherein each value represents a memory address (each byte represents a RAM address, col. 4, ll. 8-13). Jensen also discloses the signal line communicate 95 communicates with a plurality of memory addresses (RAM addresses outputted to the latches 40) between a host (microprocessor loading the data sequence to the deep trap filter, col. 14, ll. 35-42) and one or more second devices (sending control signals to other devices via channel 95, col. 14, ll. 55-64).

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection necessitated by the applicant's amendment.

***Allowable Subject Matter***

10. Claims 3-6, 9-14, 17-19, 22-27 and 29-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

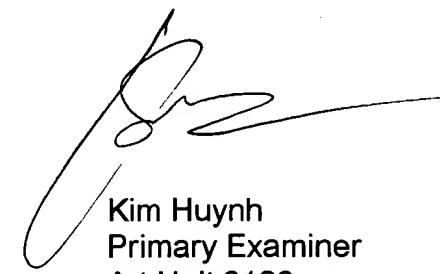
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Huynh whose telephone number is (703) 308-1678.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim Huynh  
Primary Examiner  
Art Unit 2182

KH  
4/28/04